

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5192 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MANIBHAI HARIBHAI PATEL

Versus

STATE OF GUJARAT

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Appearance:

MR MM PRAJAPATI for Petitioner  
MR VB GHARANIYA, AGP for Respondent No. 1  
MR HS MUNSHAW for Respondent No. 3  
MR JD AJMERA for Respondent No. 4

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CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 16/11/98

ORAL JUDGEMENT

By means of this petition, the petitioner has sought to issue direction to the respondents to make the payment of the dues of the petitioner towards leave encashment on retirement, group insurance, LTC for the relevant block in cash, arrears of pay difference and for the payment of interest on the amount of arrears of

pension and gratuity from the date of retirement of the petitioner till the actual payment of the respective amount.

2. The learned counsel for the petitioner submits that the respondent-authorities had not settled the retirement dues of the petitioner inspite of the fact that more than one year and six months had passed. The inordinate delay in deciding the dues of the petitioner is absolutely illegal, unjust and contrary to the settled legal position. The petitioner retired from service on 31.1.1988. In spite of the instructions given to forward the petitioner's pension papers well in advance, the concerned clerk did not prepare the pension papers in time. Hence, he is responsible for the delay in payment of the pensionary benefits. The additional affidavit in reply has been filed by respondent No. 3-Taluka Development Officer, Taluka Panchayat, Visnagar Panchayat Office, Visnagar, District Mehsana wherein it is stated that an amount of Rs.73/- being difference of dearness allowance for the month of January, 1988 was paid to the petitioner by voucher dated 13.6.1988. As the petitioner did not accept the same, the amount was deposited in the State Bank of India on 10.5.1989. However, that amount was collected by the petitioner on 26.9.1989. So far as the amount of group insurance is concerned, an amount of Rs.1346/- was tendered to the petitioner, but the petitioner refused to accept the same on 26.9.1989. So far as the claim for LTC is concerned, the petitioner was required to submit his option in the prescribed form for encashment of LTC and the petitioner submitted his option in the prescribed form. Therefore, the payment of encashment of LTC to the tune of Rs.2752/- was already made to the petitioner on 18.9.1989. Thus, this petition in respect of prayer (A) in paragraph 19 has become infructuous and no claim of the petitioner has remained pending for consideration.

3. So far as the payment of interest on the amount of arrears of pension and gratuity from the date of retirement of the petitioner till the actual payment is concerned, it is true that the payment of arrears of pension and gratuity was made after one year and six months from the date of retirement. But the learned counsel for the petitioner could not point out as to which of the authority was responsible for such inordinate delay inasmuch as the affidavit of Shri G.D. Pandya, Taluka Development Officer has been filed in reply wherein it is stated that the proceedings for settling the petitioner's pension were started in February, 1987 though the petitioner was to retire on

superannuation on 31.1.1988. The papers were sent to the Accountant General, Ahmedabad on 3.3.1987. The Accountant General-respondent No. 4 raised a query by letter dated 25.5.1987 regarding the petitioner's service for the period from 21.11.1957 to 21.5.1959 as to whether the said services were continuous, full time and pensionable and whether the petitioner was paid any gratuity or Central Provident Fund for the said period. Respondent No. 3 furnished the requisite information by letter dated 16.7.1987. On 14.7.1987 respondent No. 3 had sent a reminder to the Accountant General-respondent No. 4 for sanction of the petitioner's pension case. The letter sent by respondent No. 3 was required to be counter signed by the District Development Officer, Mehsana. Meanwhile, the petitioner moved an application dated 20.11.1987 requesting that the petitioner's pension be fixed on the basis of the salary in the revised pay-scale and the petitioner has specifically stated that in view of the said cause the petitioner would not mind the delay in preparation of the new pension case. Accordingly, respondent No. 3 fixed the petitioner's pay in the revised pay-scale on 26.11.1987. No Competent Authority was to verify the pay fixation as the Government had not appointed such authority for verification by that time. Hence, respondent No. 3 sent the service book and other papers of the petitioner to the Officer, Local Fund, Mehsana for pay verification by letter dated 13.1.1988. However, those papers were returned in February, 1988. Ultimately, the pay fixation was verified by the Pay Fixation Officer, Ahmedabad at Mehsana on 27.4.1988. The petitioner was required to sign the new pension case by letter dated 2.5.1988 and the petitioner signed those papers on 5.5.1988. Respondent No. 3 sent the papers of the petitioner to the Accountant General-respondent No. 4, but on the Government instructions the pension cases of all the employees retiring on or after 1.4.1988 were required to be dealt with and finalized by the new Directorate of Pension & Provident Fund, Ahmedabad. Hence, the papers were returned by the Accountant General, Ahmedabad to the Office of respondent No. 3 and those papers were required to be referred to the Directorate of Pension & Provident Fund, Ahmedabad and within a week the papers were sent by respondent No. 3 to the Directorate of Pension & Provident Fund, Ahmedabad. Respondent No. 3 again sent a reminder on 6.9.1988 and respondent No. 3 received a reply dated 30.8.1988 from the Directorate of Pension & Provident Fund requiring certain information. The petitioner was called to furnish the requisite information and documents. The petitioner supplied the same on 26.9.1988 and the papers of the petitioner's

pension alongwith information were sent to the Deputy Director of Pension & Provident Fund, Ahmedabad by letter dated 30.9.1988. Respondent No. 3 received a letter on 4.11.1988 requiring the pension papers of the petitioner to be sent to the Accountant General and not to the Directorate of Pension & Provident Fund, Ahmedabad. Ultimately, all the papers were sent to the Accountant General, Ahmedabad who sanctioned the pension by order dated 14.2.1989. Thereafter, the Directorate of Pension & Provident Fund, Ahmedabad passed the order dated 22.2.1989 fixing the petitioner's pension and gratuity. The establishment branch sent the said order alongwith the last pay certificate and no due certificate to the Treasury Officer on 3.1.1989. As such respondent No. 3 is not responsible at all for any delay caused in fixing the pension of the petitioner. The learned counsel for the petitioner could not point out as to which of the authority was responsible for the delay. On the other hand, the petitioner also contributed in the delay. As such I find no merit in this petition for the sense of any direction to the appropriate authorities. Accordingly, the petition is dismissed. Rule is discharged with no order as to costs.

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